

CHARTING SELF-TEST

By taking the following test, you will determine your ability to:

1. Identify common charting errors that can make you legally vulnerable.
2. Describe proper charting techniques to show you've learned to "think litigation."
3. Differentiate between the functions of an expert witness and other witnesses.
4. Describe the preparation necessary for giving a deposition and testifying as an expert witness.
5. Identify ways to maintain credibility as an expert witness.

True-False Questions (Indicate true or false, T or F)

- _____ 1. What the nurse writes in the chart is immaterial in litigation.
- _____ 2. What is not documented can be as important as what is documented in a court case.
- _____ 3. In a court case, the jury will consider the nurse's testimony as the most important factor.
- _____ 4. If the nurse is concerned that an incident will result in a lawsuit, she shouldn't document it in the patient's chart.
- _____ 5. Patients' charts cannot be admitted as evidence in court.
- _____ 6. If the nurse makes a mistake in an entry in the patient's chart she should obliterate it completely.
- _____ 7. In recording an incident in a chart, the nurse should report the facts and not the conclusions.
- _____ 8. Accepted hospital procedure, even though medically inappropriate, is defensible in a court case.
- _____ 9. Jurors will normally understand and accept time pressures and hectic schedules (which are typical of nursing situations) as a defense for inadequate treatment.
- _____ 10. Nurses should chart their opinions about what occurred in an emergency before they arrived on the scene.

Multiple-Choice Questions

(Read this case study, then choose one answer to each question.)

Judy Ames, intensive-care nurse, has been asked to be an expert witness in a lawsuit involving Mr. Jose, who died from electrolyte imbalance while a patient in an ICU. Judy graduated in 1975 with a bachelor's degree and has been working in an ICU ever since. She's active in her state nurses' association and is taking a course at the local law school.

11. What of the following qualifications qualifies Judy as an expert witness?
 1. Her degree.
 2. Her 7 years of recent experience in ICU.
 3. Her active role in her state nurses' association.
 4. All of the above.
12. Judy's role as an expert witness is different from that of an involved witness in that she will be asked to state:
 1. The actual nursing care given to Mr. Jose.
 2. Her opinion of whether the nursing care met acceptable standards.
 3. Whether, in her opinion, Mr. Jose actually died because of electrolyte imbalance.
 4. Whether the lab reports on Mr. Jose has been altered.
13. Judy is scheduled to give a deposition. She should prepare by doing all of the following except:
 1. Reading books and articles about nursing care of patients with electrolyte imbalance.
 2. Reviewing the medical records.
 3. Interviewing the patient's family.
 4. Forming her own opinion of the nursing care given.

True-False Questions

In reviewing Mr. Jose's chart for the deposition, Judy should be able to identify entries that reflect nurses' ability "think litigation." Read each of the following notations to determine if each one is properly entered in terms of the legal situation. If it is correctly entered, indicate true (T); if incorrectly entered, indicate false (F).

- _____ 14. ~~XX~~
- _____ 15. Mr. Jose cannot void.
- _____ 16. BP: 120/80 at 8:13 a.m.
BP: 110/70 at 9:14 a.m.
BP: 115/70 at 10:12 a.m.
- _____ 17. Demerol 100 mg i.m. at 2 p.m./JA
Charting error corrected/JA
- _____ 18. Demerol-100-mg-i.m.-at-2-p.m.-d.A.
- _____ 19. Apparently Mr. Jose fell out of bed while I was on my break.
- _____ 20. *[Signature]*

- _____ 21. I recall that Mr. Jose had a fever of about 101 last week.
- _____ 22. Mr. Jose is uncooperative and abusive.

Multiple-Choice Questions

23. Judy has now been called to court to testify. She should prepare by doing all of the following except:
1. Reviewing her deposition.
 2. Reading the other witnesses' sworn statements.
 3. Discussing the case with the opposing lawyers.
 4. Reviewing the medical records and her research notes.
24. In court, Mr. Adams, the opposing lawyer, is trying to discredit Judy's testimony. She will maintain her credibility by:
1. Arguing with him that she is the nurse expert and that she therefore knows best.
 2. Answering quickly without thinking, because her first response is usually best.
 3. Saying, "You obviously have not prepared well for this case, Mr. Adams."
 4. Stating, when asked, "In my opinion, the nurse in this case should have...."

Case Study

Mary Mason is the night nurse in the emergency department when a patient comes in with a severe headache. She calls the attending doctor who orders morphine sulfate, 4 mg. Mary charts the doctor's order, but when she prepares to administer the drug, she assesses that the patient has been drinking. When questioned, he denies this. She reports her assessment to the doctor, who tells her to administer the dosage as ordered because he knows the patient and believes that he does not drink.

25. If Mary complies, which one of the following chart entries should she make to be legally covered.
1. Morphine sulfate, 4 mg, given as ordered/MM.
 2. Patient slurring speech; alcohol smell on breath; denies drinking when questioned; reported to doctor; morphine sulfate, 4 mg, given as ordered/MM.
 3. No entry.
 4. Patient acting drunk or stoned; reported to doctor.
26. The patient suffered a cardiac arrest. In a resultant court case, Mary could defend her having given the medication by maintaining:
1. Nurses must always obey doctors' orders.
 2. She had deferred to the doctor's judgment, having made an honest effort to change his order by expressing her opinion about a factor that he had no direct knowledge of.
 3. She had no responsibility beyond doing what she was told.
 4. She couldn't recall the details of an incident that had occurred years earlier.

27. If the patient's attorney were to discover a totally obliterated entry in Mary's charting, she could successfully defend herself:
 1. By subpoenaing the doctor and relying on his recall of the situation.
 2. By persuading the jury to believe her account of the incident, based upon her own recollection.
 3. By maintaining that changing the records was common and accepted hospital procedure.
 4. There is no totally reliable and dependable defense for this serious charting error.
28. Although obviously not intentionally obliterated, a totally illegible entry at a critical place in the patient's chart might well lead the jury to believe that:
 1. Mary's careless handwriting reflected careless nursing practices.
 2. Even though information significant to the case had been lost, all medical people write illegibly and Mary's practice should be excused.
 3. Mary was obviously under duress because of her concern for the doctor's difference of opinion regarding the patient, and therefore could not be held to her nursing responsibility for proper charting.
 4. Mary's recollection of the events described in the illegible entries should be accepted into evidence as readily as those entries that were legible.

Case Study

You have been approached by Mr. Long, lawyer for the plaintiff, to testify on standards of nursing care.

29. Your role in the courtroom would be that of:
 1. Involved witness
 2. Expert witness
 3. Defendant
 4. Defense witness
30. Your function in a jury trial may be all of the following except:
 1. Interviewing prospective jurors
 2. Giving your opinion on proper nursing care
 3. Defining terminology
 4. Explaining procedures
31. You have been asked by Mr. Long to explain the workings of a Hemovac to the jury. The best way to present this information would be to:
 1. Look directly at the lawyer and say, "A Hemovac is an evacuation device utilizing physics principles."
 2. Look at the jury and state, "I don't know how a Hemovac works."
 3. Bring a Hemovac to court and explain it to the jury.
 4. Read your prepared description to the lawyer.

POST TEST
Charting with a Jury in Mind

DIRECTIONS: Answer each of the following short essay questions.

1. Describe how the medical chart can be used to demonstrate negligent care.
2. List three (3) common charting errors that can leave you legally vulnerable.
3. Outline the preparation a nurse should have prior to giving a deposition.
4. Outline three (3) principles for effective testifying in malpractice cases.